

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RUSSELL JD SMITH,

Plaintiff,

v.

KITTITAS COUNTY VETERANS
COALITION; KITTITAS COUNTY
BOARD OF COUNTY
COMMISSIONERS; VETERANS
ADVISORY BOARD; JERRY
PETTIT, Kittitas County Auditor;
PAUL JEWEL; OBIE O'BRIEN;
BILLY ROBINS; CHAD LARSON;
RONALD NESS; BRENT PAINE;
JOSEPH PEACH; MEL GOUDGE;
and WERNER HILLEMANN,

Defendants.

NO: 1:16-CV-3140-RMP

ORDER GRANTING DEFENDANTS'
MOTION TO CONTINUE SUMMARY
JUDGMENT HEARING

Before the Court is Defendants' Motion to Continue Summary Judgment Response and Hearing Dates, ECF No. 14, and Motion to Expedite the Same, ECF No. 16. Defendants are represented by Kenneth Harper. Plaintiff is appearing pro se.

Plaintiff filed a motion for summary judgment, ECF No. 12, which is noted for hearing on January 9, 2017, without oral argument. However, Plaintiff failed to provide in the motion any of the information required by Local Rule 7.1, such as

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1 “supporting factual assertions and legal authority,” and failed to comply with Local
2 Rule 56.1 which states:

3 (a) Any party filing a motion for summary judgment shall set forth
4 separately from the memorandum of law, and in full, the specific facts
5 relied upon in support of the motion. The specific facts shall be set forth
6 in serial fashion and not in narrative form. As to each fact, the
statement shall refer to the specific portion of the record where the fact
is found (i.e., affidavit, deposition, etc.). The specific portions of the
record relied upon shall be attached to the statement of material facts.

7 Defendants filed a motion to continue based on Fed. R. Civ. P. 56(e) and
8 54(d) which provide a court with authority to issue appropriate orders to allow a
9 responding party a meaningful opportunity to properly respond to an opposing
10 party’s motion for summary judgment. Defendants contend that Mr. Smith’s
11 failure to comply with Local Rule 56(a) prejudices Defendants because Mr. Smith
12 has failed to provide a factual basis for his motion. In addition, Defendants’
13 counsel explains that Mr. Smith has failed to produce disclosures as required by
14 the Court’s trial scheduling order and by Fed. R. Civ. P. 26(a)(1). Defendants note
15 that they are attempting to schedule Mr. Smith’s deposition for mid-December at
16 which time they hope to obtain some of the needed information for a response to
17 his motion for summary judgment. Defendants submitted an additional declaration
18 explaining that defense counsel was able to discuss Defendants’ continuance of
19 Plaintiff’s motion with Plaintiff and that Plaintiff objects to any continuance. ECF
20 No. 17.

1 The Court understands that Mr. Smith is proceeding pro se. However, Mr.
2 Smith is still required to adhere to the Rules of Civil Procedure and the Local
3 Rules of this Court regarding motion practice. All of those rules are readily
4 available via the internet. In this case, requiring the Defendants to respond to Mr.
5 Smith's vague and unsupported motion for summary judgment without the
6 supporting memorandum and statement of material facts that Mr. Smith is required
7 to file would prejudice Defendants and deprive the Court of an opportunity to
8 make a fully informed decision on Mr. Smith's motion.

9 Therefore, pursuant to Fed. R. Civ. P. 56(d) and 56(e), the Court strikes Mr.
10 Smith's Motion for Summary Judgment, ECF No. 12, the January 9, 2017, hearing
11 date, and all associated filing deadlines. Mr. Smith is directed to file an amended
12 motion for summary judgment, if he so chooses, but to assure that any amended
13 motion is in conformance with this Court's Local Rule 56 and the Federal Rules of
14 Civil Procedure. He must include a factual basis for his motion with supporting
15 documentation. Mr. Smith must authenticate any exhibits on which he relies and
16 adhere to the Federal Rules of Evidence.

17 Accordingly, **IT IS HEREBY ORDERED:**

18 1. Defendant's Motion to Continue, **ECF No. 14**, and Motion to Expedite,
19 **ECF No. 16**, are **GRANTED**.

2. The Clerk of Court is hereby directed to **STRIKE** Plaintiff's Motion for Summary Judgment, **ECF No. 12**, from the record, and **STRIKE** the Summary Judgment hearing date of January 9, 2016.

The District Court Clerk is directed to enter this Order and provide copies to counsel and pro se Plaintiff.

DATED: November 29, 2016.

s/ Rosanna Malouf Peterson
 ROSANNA MALOUF PETERSON
 United States District Judge